

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**MARY PRZYTULA and BRAD BREDE, on
behalf of themselves and all others similarly
situated,**

Plaintiffs,

v.

BED BATH & BEYOND INC.,

Defendant.

No. 17 Civ. 5124

DECLARATION OF ROBERT MURPHY

I, ROBERT MURPHY, based on my personal knowledge of the facts stated herein,
testify by Declaration as follows:

1. I am over the age of 18 and am otherwise competent to testify to the matters
contained in this Declaration, and if so called, would testify to the facts below.

2. All of the statements in this Declaration are true and accurate to the best of my
knowledge.

3. The facts set forth in this Declaration are based on my own personal knowledge
and the stores in which I have experience.

4. I became employed by BBB on June 6, 2005, as a Department Manager. I was
eventually promoted to Assistant Store Manager, then to Store Manager and to Area Manager.
On or about March 7, 2011, I was promoted to District Manager, my current position.

5. In my capacity as District Manager, I currently oversee 8 stores primarily in South Carolina, with 2 stores in Tennessee. 1 of my stores is very high volume, 1 is high volume, 5 are mid volume, and 1 is low volume.

6. Typically, a BBB District Manager has responsibility for a number of stores in a particular geographic area. Reporting to the District Manager are Store Managers, each of whom is responsible for a single store. The Store Managers, in turn, have Assistant Store Managers ("ASMs") reporting to them. In my District, each store has between 2 and 3 ASMs. Each store has between 0 and 3 Department Supervisors who report to the ASMs. ASMs also oversee hourly store associates. The number of hourly associates varies greatly from store to store, with my low volume store having 13 associates and my very high volume store having 76 associates.

7. There are two types of ASMs at BBB: Operations Managers and Merchandise Assistant Managers. All ASMs at BBB in my District are classified as exempt employees.

8. Both Operations Managers and Merchandise Assistant Managers are expected to do primarily exempt work. The responsibilities required of an ASM vary as a result of a number of factors.

9. The type of ASM (Operations vs. Merchandise Assistant Manager) has an impact on their day-to-day exempt responsibilities. While both types of ASMs are responsible for managing the Department Supervisors and store associates who report to them, Operations Managers generally supervise more employees than Merchandise Assistant Managers and in different ways. For example, Operations Managers are responsible for writing the schedules in the stores and, accordingly, are more involved with the hiring and staffing needs of the store. For this reason, the Operations Managers in my stores facilitate the hiring process and typically conduct most of the first round interviews.

10. Additionally, ASMs are designated as the “Manager on Duty,” (“MOD”) which affords them an opportunity to assume extra exempt responsibilities. Serving as the MOD means that the person designated as MOD is the decision-maker for the store, managing service levels, safety, applicant flow and other areas. In a low volume store, ASMs are responsible for managing fewer associates in their role as MOD than an ASM in a high volume store. In my stores, most ASMs spend 4 hours per day serving as MOD and, during that time, they typically issue more discipline and feedback to associates than when they are not functioning as the MOD.

11. Store volume also impacts the amount of discipline or training performed by ASMs. ASMs in higher volume stores typically conduct more discipline and training than ASMs in lower volume stores given the varying number of associates.

12. Similarly, certain markets affect the experiences and responsibilities of ASMs. For example, Store 199 in my District is in Columbia, South Carolina which is a college town. This store tends to have a higher turnover rate than some of my other stores, as many associates are college students who eventually graduate and pursue other careers. In a store such as Store 199, ASMs typically conduct more interviews and training in light of the level of turnover. ASMs that are responsible for managing a majority of college-aged associates typically tend to issue more discipline than ASMs with a more experienced workforce.

13. ASMs are important members of management. They are the leaders of the store, in charge of assisting the Store Manager with running the store, and are responsible for training and developing the associates. When a Store Manager is not at the store, the Assistant Store Manager is in charge of the entire store.

14. Robert Temple was employed as an Assistant Store Manager in my District. Robert worked as an Operations Manager in Store 199, which is a high volume store in

Columbia, South Carolina with almost 40 associates. Robert understood what his job duties as an Operations Manager required, but he struggled to perform in accordance with BBB's standards. In light of his performance issues, we decided to transfer Robert to work as a Merchandise Assistant in Store 779 which is a mid-volume store, also in Columbia, South Carolina, with approximately 20 associates.

15. Upon being transferred from an Operations Manager to a Merchandise Assistant and from a high-volume store to a mid-volume store, Robert's performance as an ASM improved. Eventually, Robert transferred back to Store 199 but continued in his role as a Merchandise Assistant.

16. Despite the same expectations being required of him as a Merchandise Assistant, Robert began to again struggle with performing his managerial duties upon returning to a high-volume store.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 18th day of December, 2017.

By: 

Robert Murphy
District Manager
Bed Bath and Beyond Inc.